

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 3:14-CR-82
v.)	
)	
)	
TERESSA A. ENGLE, and)	(PHILLIPS / SHIRLEY)
BRIAN E. ENGLE,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation as may be appropriate. The parties appeared before the undersigned on October 3, 2016, a pretrial conference and motion hearing on the Motion of the Defendant Brian E. Engle for a Continuance [Doc. 241], filed on September 27, 2016. Assistant United States Attorney Caryn L. Hebets appeared on behalf of the Government. Attorney Theodore R. Kern represented Defendant Teressa Engle. Attorney Francis L. Lloyd, Jr., represented Defendant Brian Engle. Both Defendants were also present.

By way of background, the Court observes that it substituted [Doc. 235] Attorney Lloyd as Mr. Engle's counsel of record on August 26, 2016, upon finding that Mr. Engle's prior appointed counsel had an actual conflict of interest. Ms. Engle had her initial appearance and arraignment shortly thereafter, on August 30, 2016. The Court extended [Docs. 239 & 240] the motion deadline for both Defendants to September 28, 2016. On September 27, 2016, Mr. Lloyd

moved [Doc. 241] to continue the trial and all pretrial deadlines. In his motion, he stated that neither the Government, nor his codefendant, objected to the requested continuance.

At the October 3 hearing, Mr. Kern stated that the discovery in this case consists of a disc containing some sixty gigabytes of information. He stated that he had not had time to complete his review of this disc before the expiration of the motion deadling. He stated that he had discussed the matter of a continuance with Ms. Engle, who did not object. Mr. Lloyd agreed that the discovery in this case is voluminous. He also pointed to the fact that both Defendants have only recently entered the case. He said that he had reviewed the speedy trial rights with Mr. Engle, along with the necessity of a continuance. Both Defendants stated that they understood their speedy trial rights and wanted the case to be continued. AUSA Hebets stated that the Government did not object to a trial continuance or to an extension of the motion deadline. The parties agreed on a new trial date of January 31, 2017.

The Court finds Mr. Engle's motion to continue the trial to be unopposed by the Government or Ms. Engle and to be well-taken. The Court also finds that the ends of justice served by granting a continuance outweigh the interest of the Defendants and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Indictment [Doc. 3] charges the Defendants with conspiring with seven named codefendants and others to manufacture methamphetamine from January 2008 to July 15, 2014 (Count One), and with possession of equipment and materials used to manufacture methamphetamine on July 15, 2014 (Counts Ten & Eleven). The discovery in this case consists of over sixty gigabytes of information and includes audio and video recordings. The Court finds that both defense counsel have been on this case for a little over a month and that they need additional time to review the voluminous discovery, to locate and interview witnesses, and to prepare the case for trial. The Court finds that this preparation

cannot take place by the October 18 trial date or in less than four months. Thus, without a continuance, counsel would not have the reasonable time necessary to prepare for trial despite their use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

The Defendant Brian Engle's motion [**Doc. 241**] to continue the trial is **GRANTED**, and the trial is reset to **January 31, 2017**. The Court finds and the parties agree that all the time between the filing of the Motion of the Defendant Brian E. Engle for a Continuance on **September 27, 2016**, and the new trial date of **January 31, 2017**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D) & -(7)(A)-(B). With regard to additional scheduling in this case, the deadline for filing pretrial motions is extended to **October 24, 2016**. Responses to motions are due on or before **November 7, 2016**. The parties are to appear before the undersigned for a pretrial conference and motion hearing on all pending pretrial motions on **November 21, 2016, at 9:30 a.m.** The deadline for concluding plea negotiations and providing reciprocal discovery is extended to **December 21, 2016**. The Court instructs the parties that all motions *in limine* must be filed no later than **January 16, 2017**. Special requests for jury instructions shall be submitted to the District Judge no later than **January 20, 2017**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED** as follows:

- (1) The Motion of the Defendant Brian E. Engle for a Continuance [**Doc. 241**] is **GRANTED**;
- (2) The trial of this matter is reset to commence on **January 31, 2017, at 9:00 a.m.**, before the Honorable Thomas W. Phillips, United States District Judge;
- (3) All time between the filing of the motion on **September 27, 2016**, and the new trial date of **January 31, 2017**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;

(4) The deadline for filing pretrial motions is extended to **October 24, 2016**;

(5) Responses to motions are due on or before **November 7, 2016**;

(6) The parties are to appear before the undersigned for a pretrial conference and motion hearing on **November 21, 2016, at 9:30 a.m.**;

(7) The deadline for concluding plea negotiations and providing reciprocal discovery is extended to **December 21, 2016**;

(8) Motions *in limine* must be filed no later than **January 16, 2017**; and

(9) Special requests for jury instructions with appropriate citations shall be submitted to the District Judge by **January 20, 2017**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge